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COMMISSION

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September 8, 2004

HAND DELIVERY

Elizabeth O'Donnell
Executive Director
Kentucky Public Service Commission
211 Sower Boulevard
Frankfort, Kentucky 40601

RE: Joint Application of Louisville Gas and Electric Company, Metro Human Needs Alliance, Inc., People Organized and Working for Energy Reform, and Kentucky Association for Community Action, Inc. for the Establishment of a Home Energy Assistance Program
Case No. 2004-00304

Dear Ms. O'Donnell:

Enclosed please find and accept for filing the original and ten (10) copies of Louisville Gas and Electric Company's Motion for Protective Order in the above-referenced matter. Please confirm your receipt of this filing by placing the stamp of your Office with the date received on the enclosed additional copy and return it to me in the enclosed self-addressed stamped envelope.

Should you have any questions or need any additional information, please contact me at your convenience.

Very truly yours,

Allyson K. Sturgeon

AKS/ec
Enclosures
cc: Parties of Record

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

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In the Matter of:

JOINT APPLICATION OF LOUISVILLE GAS)
AND ELECTRIC COMPANY, METRO HUMAN)
NEEDS ALLIANCE, INC., PEOPLE ORGANIZED)
AND WORKING FOR ENERGY REFORM, AND) CASE NO: 2004-00304
KENTUCKY ASSOCIATION FOR COMMUNITY)
ACTION, INC. FOR THE ESTABLISHMENT OF A)
HOME ENERGY ASSISTANCE PROGRAM)

MOTION FOR PROTECTIVE ORDER

On August 3, 2004, Mr. Robert L. Madison (“Mr. Madison”) moved the Kentucky Public Service Commission (“Commission”) for full intervention into this proceeding. Following the filing of an objection to his motion by Louisville Gas and Electric Company (“LG&E”), the Commission issued an Order denying Mr. Madison’s motion on August 25, 2004. Finding that Mr. Madison was “not likely to present issues or develop facts that will assist the Commission in fully considering this case without unduly complicating or disrupting the proceedings,” the Commission granted Mr. Madison only limited intervention. Order of August 25, 2004, pp. 2-3.

A person making a limited intervention is only “entitled to the full rights of a party at the hearing in which he appears and shall be served with the commission's order, but [...] shall not be served with filed testimony, exhibits, pleadings, correspondence and all other documents submitted by parties.” 807 KAR 5:001, Section 3(8)(a). Only a person who is granted full intervention may conduct discovery or file testimony, because such a person “has a special interest in the proceeding which is not otherwise adequately represented,” or “is likely to present issues or to develop facts that assist the commission in fully considering the matter without unduly complicating or disrupting the proceedings.” 807 KAR 5:001, Section 3(8)(b). The

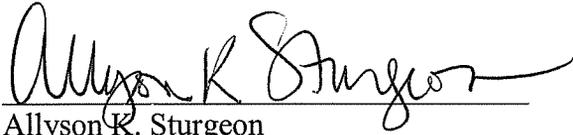
Commission has already found that Mr. Madison does not meet these requirements. Order of August 25, 2004.

Mr. Madison has now sent twelve pages of data requests to LG&E for response by Friday, September 17, 2004. These data requests include 34 questions, with 95 additional subparts. These requests are unduly burdensome, will certainly complicate or disrupt the proceeding, and should be rejected outright by the Commission. As discussed above, Mr. Madison has the rights of a party only at any hearing in which he may appear. Mr. Madison should not be afforded the right to conduct discovery or file testimony or otherwise act as a full intervenor outside of a hearing, particularly in light of the Commission's finding that he "lacks the education and professional training to testify as an expert witness." Order of August 25, 2004, p. 2. Such limitations are consistent with the basic principle of administrative law that an administrative agency may impose reasonable terms on one seeking to intervene in a pending proceeding. Vinson v. Washington Gas Light Co., 321 U.S. 489, 498 (1944); See 73A C.J.S. Public Administrative Law and Procedure §121.

WHEREFORE, Louisville Gas and Electric Company respectfully requests that the Commission grant its request for a protective order of the information sought by Mr. Robert L. Madison in data requests dated September 7, 2004.

Dated: September 8, 2004

Respectfully submitted,

A handwritten signature in black ink that reads "Allyson K. Sturgeon". The signature is written in a cursive style with a long horizontal flourish extending to the right.

Allyson K. Sturgeon

Connie L. Verrill

Ogden Newell & Welch PLLC

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500 West Jefferson Street

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Senior Corporate Attorney

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Counsel for Louisville Gas and
Electric Company

CERTIFICATE OF SERVICE

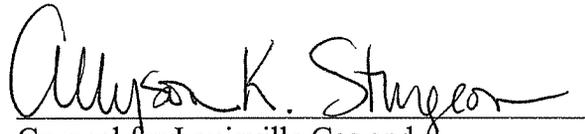
The undersigned hereby certifies that a true and correct copy of the foregoing Motion for Protective Order was served on the following persons on the 8th day of September 2004, United States mail, postage prepaid:

Lisa Kilkelly
Legal Aid Society, Inc.
425 W. Muhammad Ali Blvd.
Louisville, Kentucky 40202

Joe F. Childers
Community Action Council and Kentucky
Association for Community Action, Inc.
201 West Short Street, Suite 310
Lexington, Kentucky 40507

Elizabeth Blackford
Dennis Howard II
Assistant Attorneys General
Office of the Attorney General
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1024 Capital Center Drive, Suite 200
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Robert L. Madison
5407 Baywood Drive
Louisville, Kentucky 40241-1318


Counsel for Louisville Gas and
Electric Company and